



PATENT
Customer No. 22,852
Attorney Docket No. 04853.0059

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Kazunari TAIRA et al.) Group Art Unit: 1635
Application No.: 09/763,590) Examiner: M. Schmidt
Filed: February 26, 2001)
For: EXPRESSION SYSTEMS FOR)
TRANSCRIPTION OF)
FUNCTIONAL NUCLEIC ACIDS)

#9/1.7.
11/21
ELECTION

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Assistant Commissioner for Patents
Washington, DC 20231

Sir:

RESPONSE TO RESTRICTION REQUIREMENT

This paper is responsive to the Office Action mailed September 13, 2002, which set a shortened statutory period for response of one month. In a separate petition, Applicants have requested and paid the fee for a one-month extension of time. Thus, this response is timely filed.

The Office has issued a restriction requirement, asserting that pending claims 1-15 are directed to three allegedly separate and distinct inventions as follows:

Group I: claims 1-7 and 10, drawn to compositions and methods comprising bases 1-80 or the entire SEQ ID NO:1;

Group II: claims 2-7 and 11, drawn to compositions and methods comprising bases 1-86 or the entire SEQ ID NO:2;

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Group III: claims 8, 9, and 12-15, drawn to compositions and methods comprising SEQ ID NO:4.

Applicants are required to elect a group for examination on the merits. Office Action, page 3. To be fully responsive to the restriction requirement, Applicants elect group 1 (claims 1-7 and 10, drawn to compositions and methods comprising bases 1-80 or the entire SEQ ID NO:1), with traverse.

As grounds for the restriction requirement, the Office asserts that the different sequences recited in the claims (SEQ ID NOS: 1, 2, and 4) represent different products that do not share a common core structure and activity. Thus, the inventions allegedly lack unity of invention. Applicants respectfully disagree. For example, SEQ ID NOS: 1 and 2 are highly homologous (*i.e.*, share a common core sequence). In fact, Applicants have informed the undersigned that SEQ ID NO:1 differs from SEQ ID NO:2 by only 6 nucleotides (at positions 83-88). Thus, these two sequences share a common core structure. Moreover, SEQ ID NOS: 1 and 2 are disclosed as having a common function or activity as ribozymes. Thus, at the very least, Groups I and II do not lack unity of invention and should be rejoined for purposes of examination.

Additionally, Applicants note that no serious burden is imposed on the Office in conducting a search of groups I, II, and III together. A complete search of the nucleic acids of group I will produce art that is relevant to each of the groups. Applicants note that significant portions of SEQ ID NOS: 1 and 2 are included within the scope of claim 8 (group III). Accordingly, Applicants respectfully request that groups I, II, and III be rejoined for examination on the merits.

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If necessary, please grant any extensions of time required to enter this response
and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: November 13, 2002

By: 

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